

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JAMES C. WINDING, NO. K8115

PETITIONER

versus

CIVIL ACTION NO. 5:05-cv-178-DCB-MTP

RONALD KING, Superintendent, and
JIM HOOD, Attorney General RESPONDENTS

ORDER

This cause is before the Court on Petitioner's Motion to Reopen Case [**docket entry no. 169**] and Letter Motion [**docket entry no. 170**] requesting free copies of various documents. As the Court understands the Petitioner's argument, he asks the Court to reopen his case because he has evidence of his actual innocence. Having reviewed the record in this case and having considered the merits of the pending Motions, the Court finds the Petitioner's requests lack merit and denies the Motions for the following reasons:

As an initial matter, Petitioner's Motion to Reopen Case [docket entry no. 169] is not properly before the Court, as this request qualifies as a second or successive motion for relief under § 2254. See Rule 9 of the Rules Governing Section 2254 Proceedings. For the Petitioner to present his argument to this Court, he must first seek permission from the Court of Appeals. See id.; see also July 13, 2009 Order at 2, docket entry no. 146. To the extent that this Motion could be construed as a Rule 60(b) motion, see Gonzalez v. Crosby, 545 U.S. 524 (2005), it is denied because the evidence to which the Petitioner refers is not "newly discovered." To

overcome this hurdle, the Petitioner asks the Court to excuse his failure to reference this evidence in his previous filings because of his unstable mental state. This explanation is not convincing, inasmuch as the Petitioner has thoroughly prosecuted his case in this Court since 2004—the year the Petitioner sustained the injuries which led to his mental condition. Furthermore, the Court has examined the basis of the Petitioner's claim of actual innocence and finds it without merit.

As to the Petitioner's request that the Court provide him with free copies of various documents, the Court denies this Motion because the Petitioner has not provided the Court with a meritorious reason to assess to the public further costs associated with his case. The Court once again directs the Petitioner to the Local Rules of the Court for information on how to obtain records in this case. See Sep. 30, 2010 Order, docket entry no. 168.

For the foregoing reasons,

IT IS HEREBY ORDERED that Petitioner's Motion to Reopen Case [docket entry no. 169] is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's Letter Motion [docket entry no. 170] is **DENIED**.

SO ORDERED, this the 1st day of May, 2012.

/s/ David Bramlette

UNITED STATES DISTRICT JUDGE